



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,297	08/03/2001	Jane I. Potter	4371-000002	9688
7590 Bryan K. Wheelock Harness, Dickey & Pierce, P.L.C. Suite 400 7700 Bonhomme St. Louis, MO 63105				
09/17/2009				
EXAMINER				
FRENEL, VANEL				
ART UNIT		PAPER NUMBER		
3687				
MAIL DATE		DELIVERY MODE		
09/17/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JANE I. POTTER and HERBERT B. SCHNEIDERMAN

Appeal 2009-004819
Application 09/922,297
Technology Center 3600

Mailed: September 17, 2009

Before DALE M. SHAW, *Chief Appeals Administrator*

ORDER REMANDING APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on January 6, 2009. A Docketing Notice was mailed and Appeal No. 2009-004819 was assigned on February 26, 2009. A review of the application has revealed that the application was not ready for docketing as an appeal. Accordingly, the application is herewith being remanded to the Examiner. The matter requiring attention is identified below.

Claims 1-46 of the instant application are set forth as method claims that may not fall within one of the four statutory categories of invention recited in 35 U.S.C. § 101. On May 15, 2008, the Deputy Commissioner for Patent Examining Policy, John J. Love, issued a memorandum entitled “Clarification of “Processes” under 35 U.S.C. § 101.” This memorandum is further used in conjunction with the Interim Guidelines and the Manual of Patent Examining Procedure § 2106.IV.B, when determining whether a claimed invention falls within a statutory category of invention. *See In re Bilski*, 545 F.3d 943 (Fed. Cir. 2008) (en banc). Thus, there is a question as to whether claims 1-46 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

Accordingly, it is

ORDERED that the application is remanded to the Examiner to determine if claims 1-46 meet the requirements of being a patent eligible process under 35 U.S.C. § 101.

If there are any questions pertaining to this order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

mls

BRYAN K. WHELOCK
HARNESS, DICKEY & PIERCE, P.L.C.
SUITE 400
7700 BONHOMME
ST. LOUIS, MO 63105